

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF OCTOBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE RAJENDRA BADAMIKAR

CRIMINAL PETITION NO.8693/2022

BETWEEN:

1. C.V.RAGHAVENDRA

2. SRIRAMA NANDHINA

....PETITIONERS

(BY SRI.HARISH PRABHU S, ADVOCATE)

AND:

STATE BY MALUR POLICE STATION
REPRESENTED BY S.P.P.
HIGH COURT OF KARNATAKA
BENGALURU – 560001

...RESPONDENT

(BY SMT.RASHMI JADHAV, HCGP)

THIS PETITION IS FILED U/S 438 OF CR.P.C BY THE ADVOCATE FOR THE PETITIONERS PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO ENLARGE THE PETITIONERS ON BAIL IN THE EVENT OF THEIR ARREST IN CR.NO.381/2022 OF MALUR POLICE STATION, KOLAR DISTRICT FOR THE OFFENCE P/U/S 381 OF IPC ON THE FILE OF THE PRL. CIVIL JUDGE (JR. DN) AND J.M.F.C COURT, MALUR, KOLAR DISTRICT AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed by the petitioners, who are Manager and Assistant Manager of the Flipcart Company, under Section 438 of Cr.P.C. seeking anticipatory bail in the event of their arrest in Crime No.381/2022 on the file of Malur Police Station for the offence punishable under Section 381 of the Indian Penal Code, 1860 (for short 'IPC').

2. The brief factual matrix leading to the case is that the informant – K.K.Chandrakhanth, who is security supervisor of the Flipcart Company, lodged a complaint alleging that 21 Iphone-12 were stolen from the godown and C.C.T.V footages revealed that petitioners are involved in sorting out these

phones and there was a suspicion on them and in this regard, complaint came to be lodged.

3. The petitioners apprehending their arrest have approached the learned Sessions Judge seeking anticipatory bail but the learned Sessions Judge has rejected the bail petition. Hence, the petitioners are before this Court.

4. Heard arguments advanced by the learned counsel for the petitioner and learned HCGP appearing for the State. Perused the records.

5. There is no serious dispute of the fact that the petitioners are admittedly working as Manager and Assistant Manager in the Flipcart Company. The complaint was lodged on 04.08.2022 regarding theft of 21 Iphone-12. The alleged offence said to have taken place on 19.07.2022 and the complaint was lodged on suspicion on the basis of CCTV footages. Learned HCGP would fairly submit that on perusal of

CCTV footages, it only reveals that the petitioners were sorting out and handling the Iphones in the godown. Learned counsel for the petitioner would submit that it is their duty and they are regularly discharging the said duty itself. No material evidence is placed on record, at this juncture, to show that the petitioners have committed the theft.

6. Apart from that, the complainant himself is a Security Officer. The godown is fully secured place and while entering the godown, security check will be done and while exiting from the godown, security check will have to be done. It is for the complainant – Security Officer to explain as how I-phones went out from the godown when he was in-charge as a Security Officer. But, no such explanation is forthcoming and only on the ground that petitioners were found sorting out I-phones boxes, they were fixed. It is also submitted that the departmental enquiry is also initiated against the petitioners. Looking to these facts and circumstances, at this juncture, there are no ingredients of the offences of theft as alleged and

even Security Officer is required to explain regarding latches on his part in providing security. The other apprehensions raised by the learned HCGP can be meted-out by imposing certain conditions. Hence, considering the facts and circumstances of the case, this petition needs to be allowed.

7. Accordingly, criminal petition is ***allowed***.

The petitioners – Accused Nos.1 and 2 are directed to be enlarged on bail in the event of their arrest in Crime No.381/2022 of Malur Police Station registered for the offence punishable under Section 381 of IPC, pending on the file of the Principal Civil Judge (Jr. Dn) and JMFC Court, Malur, Kolar on each of them executing personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with one surety for the like-sum to the satisfaction of the Investigating Officer or the concerned trial Court, subject to the following conditions:-

- (i) *Petitioners shall surrender themselves before the Investigating Officer/SHO within fifteen*

days from the date of receipt of a certified copy of the order and in the event of surrender, the Investigating Officer/SHO shall release them on bail as directed.

- (ii) They shall not directly or indirectly tamper with any of the prosecution witnesses.*
- (iii) They shall not indulge in any similar offences.*
- (iv) They shall make themselves available to the Investigating Officer for interrogation whenever called for during the course of investigation.*
- (v) They shall mark their attendance before the Investigating Officer/SHO between 9.00 a.m and 5.00 p.m. on every first Monday of the month till the final report is submitted.*
- (vi) They shall not leave the jurisdiction of the Court without prior permission.*

**Sd/-
JUDGE**